

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

RICARDO CONCEPCION,)	
)	
Plaintiff,)	
)	
vs.)	
)	
CAVALRY PORTFOLIO SERVICES, LLC,)	
)	
Defendant.)	

COMPLAINT

INTRODUCTION

1. Plaintiff Ricardo Concepcion brings this action to secure redress from unlawful credit and collection practices engaged in by defendant Cavalry Portfolio Services, LLC. Plaintiff alleges violation of the Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq. (“FDCPA”), and the Illinois Collection Agency Act, 225 ILCS 425/1 et seq. (“ICAA”).

2. The FDCPA broadly prohibits unfair or unconscionable collection methods; conduct which harasses, oppresses or abuses any debtor; and any false, deceptive or misleading statements, in connection with the collection of a debt; it also requires debt collectors to give debtors certain information. 15 U.S.C. §§1692d, 1692e, 1692f and 1692g.

3. The ICAA reflects a determination that “The practice as a collection agency by any entity in the State of Illinois is hereby declared to affect the public health, safety and welfare and to be subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that the collection agency profession merit and receive the confidence of the public and that only qualified entities be permitted to practice as a collection agency in the State of Illinois. This Act shall be liberally construed to carry out these objects and purposes. . . . It is further declared to be the public policy of this State to protect consumers against debt collection abuse.” 225 ILCS 425/1a.

VENUE AND JURISDICTION

4. This Court has jurisdiction under 15 U.S.C. §1692k (FDCPA), 28 U.S.C. §1331, 28 U.S.C. §1337, and 28 U.S.C. §1367.

5. Venue and personal jurisdiction in this District are proper because:

a. Defendant's collection communications were received by plaintiff within this District;

b. Defendant does or transacts business within this District.

PARTIES

6. Plaintiff Ricardo Concepcion is an individual who resides in the Northern District of Illinois.

7. Defendant Cavalry Portfolio Services, LLC is a limited liability company which does business in Illinois. Its registered agent and office are CT Corporation System, 208 S. LaSalle St., Suite 814, Chicago, IL 60604.

8. Cavalry Portfolio Services, LLC operates a collection agency, using the mails and telephones to collect consumer debts originally owed to others.

9. Cavalry Portfolio Services, LLC is a "debt collector" as defined in the FDCPA.

10. Cavalry Portfolio Services, LLC is a collection agency subject to the ICAA.

FACTS

11. Prior to November 28, 2005, Cavalry Portfolio Services, LLC was attempting to collect from plaintiff a debt incurred for personal, family or household purposes and not for business purposes.

12. In 2005, plaintiff was forced to file a Chapter 7 petition.

13. On November 28, 2005, plaintiff received a discharge (Exhibit A).

14. Among the debts discharged was that owed to Cavalry Portfolio Services, LLC. A copy of the certificate of service showing notice of the bankruptcy to Cavalry is attached

as Exhibit B.

15. On or about October 23, 2009, a collection agency representing defendant Cavalry Portfolio Services, LLC sent plaintiff Ricardo Concepcion the collection letter attached as Exhibit C, demanding payment of the discharged debt.

16. On or about December 8, 2009, an attorney representing defendant Cavalry Portfolio Services, LLC sent plaintiff Ricardo Concepcion the collection letter attached as Exhibit D, demanding payment of the discharged debt.

17. The letters sought to collect an alleged defaulted debt incurred for personal, family or household purposes.

18. The letters sought to collect a debt that had been discharged and was not owed.

19. Plaintiff also received several telephone calls demanding payment of the discharged debt.

20. The discharge was a matter of public record. Defendant had been notified of the discharge. Furthermore, defendant could readily have ascertained its existence from a credit report or one of several services that reports bankruptcy filings to debt collectors.

21. Plaintiff was deprived of his fresh start and harassed.

COUNT I – FDCPA

22. Plaintiff incorporates paragraphs 1-21.

23. Exhibit C violates 15 U.S.C. §1692e, by representing that plaintiff owed a debt he did not owe.

WHEREFORE, the Court should enter judgment in favor of plaintiff and against defendant for:

- (1) Statutory damages;
- (2) Actual damages;
- (3) Attorney's fees, litigation expenses and costs of suit;

(4) Such other and further relief as the Court deems proper.

COUNT II – ILLINOIS COLLECTION AGENCY ACT

24. Plaintiff incorporates paragraphs 1-21.

25. Defendant is a “collection agency” as defined in the ICAA.

26. Defendant violated the following provisions of 225 ILCS 425/9:

... **(26) Misrepresenting the amount of the claim or debt alleged to be owed. .**
..

27. A private right of action exists for violation of the ICAA. Sherman v. Field Clinic, 74 Ill. App. 3d 21, 392 N.E.2d 154 (1st Dist. 1979).

WHEREFORE, plaintiff requests that the Court grant the following relief in favor of plaintiff and against defendant:

- (1) Compensatory and punitive damages;
- (2) Costs.
- (3) Such other and further relief as is appropriate.

s/Daniel A. Edelman
Daniel A. Edelman

Daniel A. Edelman
Cathleen M. Combs
James O. Lattuner
Michelle R. Teggelaar
EDELMAN, COMBS, LATTURNER
& GOODWIN, L.L.C.
120 S. LaSalle Street, 18th Floor
Chicago, Illinois 60603
(312) 739-4200
(312) 419-0379 (FAX)

NOTICE OF LIEN AND ASSIGNMENT

Please be advised that we claim a lien upon any recovery herein for 1/3 or such amount as a court awards. All rights relating to attorney's fees have been assigned to counsel.

s/Daniel A. Edelman
Daniel A. Edelman

Daniel A. Edelman
EDELMAN, COMBS, LATTURNER
& GOODWIN, LLC
120 S. LaSalle Street, 18th Floor
Chicago, Illinois 60603
(312) 739-4200
(312) 419-0379 (FAX)

T:\23954\Pleading\Complaint_Pleading.wpd